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8 **BEFORE THE**  
**BOARD OF REGISTERED NURSING**  
9 **DEPARTMENT OF CONSUMER AFFAIRS**  
10 **STATE OF CALIFORNIA**

11 In the Matter of the Accusation Against:

Case No.

2011-581

12 **ROBERT KIM FROST**  
13 **731 North Nora Avenue**  
**West Covina, CA 91790**  
14 **Registered Nurse License No. 581673**

**A C C U S A T I O N**

15 Respondent.

16  
17 Complainant alleges:

18 **PARTIES**

19 1. Louise R. Bailey, M.Ed., RN (Complainant) brings this Accusation solely in her  
20 official capacity as the Executive Officer of the Board of Registered Nursing, Department of  
21 Consumer Affairs.

22 2. On or about June 6, 2001, the Board of Registered Nursing issued Registered Nurse  
23 License Number 581673 to Robert Kim Frost (Respondent). The Registered Nurse License was  
24 in full force and effect at all times relevant to the charges brought herein and will expire on  
25 November 30, 2012, unless renewed.

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4. Code section 2750 provides, in pertinent part, that the Board may discipline any licensee, including a licensee holding a temporary or an inactive license, for any reason provided in Article 3 (commencing with section 2750) of the Nursing Practice Act.

6. Section 2761 of the Code states:

"(a) Unprofessional conduct, which includes, but is not limited to, the following:

7. Section 2762 of the Code states:

"(a) Obtain or possess in violation of law, or prescribe, or except as directed by a licensed physician and surgeon, dentist, or podiatrist administer to himself or herself, or furnish or administer to another, any controlled substance as defined in Division 10 (commencing with Section 11000) of the Health and Safety Code or any dangerous drug or dangerous device as defined in Section 4022.

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1 himself or herself, any other person, or the public or to the extent that such use impairs his or her  
2 ability to conduct with safety to the public the practice authorized by his or her license.”

3 8. California Code of Regulations, title 16, section 1442, states:

4 “As used in Section 2761 of the code, “gross negligence” includes an extreme departure  
5 from the standard of care which, under similar circumstances, would have ordinarily been  
6 exercised by a competent registered nurse. Such an extreme departure means the repeated failure  
7 to provide nursing care as required or failure to provide care or to exercise ordinary precaution in  
8 a single situation which the nurse knew, or should have known, could have jeopardized the  
9 client's health or life.”

10 9. California Code of Regulations, title 16, section 1443, states:

11 “As used in Section 2761 of the code, 'incompetence' means the lack of possession of or the  
12 failure to exercise that degree of learning, skill, care and experience ordinarily possessed and  
13 exercised by a competent registered nurse as described in Section 1443.5.”

14 10. California Code of Regulations, title 16, section 1443.5 states:

15 “A registered nurse shall be considered to be competent when he/she consistently  
16 demonstrates the ability to transfer scientific knowledge from social, biological and physical  
17 sciences in applying the nursing process, as follows:

18 “(1) Formulates a nursing diagnosis through observation of the client's physical condition  
19 and behavior, and through interpretation of information obtained from the client and others,  
20 including the health team.

21 “(2) Formulates a care plan, in collaboration with the client, which ensures that direct and  
22 indirect nursing care services provide for the client's safety, comfort, hygiene, and protection, and  
23 for disease prevention and restorative measures.

24 “(3) Performs skills essential to the kind of nursing action to be taken, explains the health  
25 treatment to the client and family and teaches the client and family how to care for the client's  
26 health needs.

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1       "(4) Delegates tasks to subordinates based on the legal scopes of practice of the  
2 subordinates and on the preparation and capability needed in the tasks to be delegated, and  
3 effectively supervises nursing care being given by subordinates.

4       "(5) Evaluates the effectiveness of the care plan through observation of the client's physical  
5 condition and behavior, signs and symptoms of illness, and reactions to treatment and through  
6 communication with the client and health team members, and modifies the plan as needed.

7       "(6) Acts as the client's advocate, as circumstances require, by initiating action to improve  
8 health care or to change decisions or activities which are against the interests or wishes of the  
9 client, and by giving the client the opportunity to make informed decisions about health care  
10 before it is provided."

11       11. Section 125.3 of the Code provides, in pertinent part, that the Board may request the  
12 administrative law judge to direct a licentiate found to have committed a violation or violations of  
13 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and  
14 enforcement of the case.

#### 15                                   **DRUG DEFINITIONS**

16       12. **Vicodin** – is a Schedule III controlled substance as designated by Health and Safety  
17 Code section 11056. It is a brand name for the combination of Hydrocodone and Acetaminophen  
18 and is a narcotic used for the relief of moderate to severe pain.

#### 19                                   **FIRST CAUSE FOR DISCIPLINE**

##### 20                   **(Obtaining Controlled Substances by Fraud, Deceit, Misrepresentation or Subterfuge)**

21       13. Respondent's license is subject to disciplinary action under Business and Professions  
22 Code section 2761, subdivision (a), on the grounds of unprofessional conduct, as defined in  
23 Business and Professions Code, section 2762, subdivisions (a) and (b), for violating Health and  
24 Safety Code section 11170, 11171, and 11173, subdivisions (a) and/or (b) and/or (c) in that while  
25 on duty as a registered nurse at White Memorial Medical Center on or about August 22, 2008,  
26 Respondent obtained, possessed, and administered for self-use controlled substances by use of  
27 fraud, deceit, misrepresentation or subterfuge as follows:

28       a. The Board of Registered Nursing received a written complaint from a staff member at

1 White Memorial Medical Center. It was reported that on August 22, 2008, Respondent Frost was  
2 observed placing a patient's medication, specifically Vicodin, in his pant's cargo pocket. An  
3 investigation at the hospital ensued. Declarations were obtained from fellow staff members  
4 confirming that Respondent stole Vicodin from a patient's prescription bottle. Respondent  
5 confessed and apologized for his behavior to a fellow co-worker at the hospital. Based on this  
6 misconduct, Respondent was terminated from his employment at the hospital.

7 **SECOND CAUSE FOR DISCIPLINE**

8 **(Unprofessional Conduct / Gross Negligence / Incompetence)**

9 14. Respondent is subject to disciplinary action under sections 2761(a)(1), in conjunction  
10 with California Code of Regulations, title 16, sections 1442, 1443, and 1443.5, in that Respondent  
11 committed acts of unprofessional conduct, and / or was grossly negligent by diverting pain  
12 medications to himself. Respondent was also incompetent by failing to exercise that degree of  
13 learning, skill, care and experience ordinarily possessed and exercised by a competent registered  
14 nurse when he diverted drugs for his own use. Complainant refers to and by this reference  
15 incorporates the allegations set forth above in paragraph 13, subparagraph (a), inclusive, as  
16 though set forth fully.

17 **PRAYER**

18 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,  
19 and that following the hearing, the Board of Registered Nursing issue a decision:

20 1. Revoking or suspending Registered Nurse License Number 581673, issued to  
21 Respondent Robert Kim Frost;

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2. Ordering Respondent Robert Kim Frost to pay the Board of Registered Nursing the reasonable costs of the investigation and enforcement of this case, pursuant to Business and Professions Code section 125.3;

3. Taking such other and further action as deemed necessary and proper.

DATED: \_\_\_\_\_

12/30/10

*Louise R. Bailey*  
\_\_\_\_\_  
LOUISE R. BAILEY, M.ED., RN

Executive Officer  
Board of Registered Nursing  
Department of Consumer Affairs  
State of California  
*Complainant*

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